

EXHIBIT D

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)

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VIDEOTAPED DEPOSITION OF HINKMOND WONG
THURSDAY, FEBRUARY 16, 2012

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7 Videotaped Deposition of HINKMOND WONG, taken on
8 behalf of Defendant, at Morrison & Foerster, 755 Page
9 Mill Road, Palo Alto, California, commencing at
10 9:40 a.m., Thursday, February 16, 2012, before Sandra
11 Lee Hockin, CSR 7372.
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1 APPEARANCE OF COUNSEL:

2
3 FOR PLAINTIFF ORACLE AMERICA, INC.:

4 BOIES, SCHILLER & FLEXNER, LLP

5 BY: FRED NORTON, ESQ.

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7 Oakland, California 94612

8 (510) 874-1000

9 fnorton@bsfllp.com

10
11 FOR DEFENDANT GOOGLE, INC.:

12 KEKER & VAN NEST

13 BY: EUGENE M. PAIGE, ESQ.

14 710 Sansome Street

15 San Francisco, California 94111

16 (415) 391-5400

17 emp@kvn.com

18
19 Also present:

20 Sean Grant, Videographer

21 Andrew Temkin, in-house counsel for Oracle

22
23
24
25
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1 HINKMOND WONG

2 having been duly sworn, testified as follows:

3 ---oOo---

4 THE VIDEOGRAPHER: Good morning. We are on
5 the record. The time is 9:42 a.m. and the date is 09:42
6 February 16, 2012. This is the videotaped deposition
7 of Mr. Hinkmond Wong.

8 My name is Sean Grant, here with our court
9 reporter, Sandy Hockin, here from Veritext National
10 Deposition and Litigation Services at the request of 09:42
11 counsel for the defendant.

12 This deposition is being held at Morrison
13 Foerster in Palo Alto, California. The caption of
14 this case is Oracle America, Inc., versus Google,
15 Inc., Case No. CV 10-03561 WHA. 09:43

16 Please note that audio and video recording
17 will take place unless all parties agree to go off of
18 the record. Microphones are sensitive and may pick up
19 whispers, private conversations, and cellular
20 interference. 09:43

21 At this time, will counsel and all present
22 please identify themselves, beginning with the
23 witness.

24 THE WITNESS: My name is Hinkmond B. Wong.

25 MR. NORTON: Fred Norton of Boies, Schiller & 09:43

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[illegible]

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[illegible]

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[illegible]

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11 I think we have to take a break to change the
12 tape now, unfortunately.

13 THE VIDEO OPERATOR: Going off the record.

14 The time is 11:52 a.m.

15 (Recess taken.)

11:52

16 THE VIDEO OPERATOR: Back on the record. The
17 time is 11:59 a.m.

18 BY MR. PAIGE:

19 Q. Mr. Wong, welcome back. Do you understand
20 you're still under oath?

11:59

21 A. Yes.

22 Q. I've put before you Exhibit 431, which is
23 the '104 patent; Exhibit 131, which is the '520
24 patent; Exhibit 429, which is the '476 patent;
25 Exhibit 164, which is the '205 patent; Exhibit 24,

11:59

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1 which is the '720 patent; and Exhibit 18, which is
2 the '702 patent.

3 A. Yes.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
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[illegible]

[illegible]

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1 MR. NORTON: Objection to form.

2 THE WITNESS: Again, I don't -- I don't know.

3 BY MR. PAIGE:

4 Q. Was it five? ten?

5 A. It was probably less than five. 12:04

6 Q. Okay. So fewer than five patents, you spent
7 30 minutes on. Is that it?

8 MR. NORTON: Objection to form.

9 THE WITNESS: Given -- given that we spent
10 time covering all of the patents, then there was no 12:04
11 patent that we covered more than 30 minutes
12 individually.

13 BY MR. PAIGE:

14 Q. When you were deciding the scale of 1 to 3 to
15 rank these six patents -- 12:04

16 A. Yes.

17 Q. -- did you draw on the past work you had done
18 to perform that evaluation of 1 to 3?

19 A. On the past work that I have done?

20 Q. Yes. 12:04.

21 A. So that means for the patent analysis?

22 Q. Yes.

23 A. I -- I had that knowledge, but I couldn't
24 find that, so that I used mainly -- what the goal of
25 the project was at hand was to match what Google had 12:04

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1 requested and required in 2006 during the business
2 negotiation. That was foremost on my mind and my
3 focus when rating the 1-through-3 scale --

4 Q. Okay.

5 A. -- for the patents. 12:05

6 Q. And I hear you saying "mainly" and "mostly."

7 A. Right.

8 Q. I want to know if you used any of the past
9 analysis that you had done when evaluating these on a
10 1 to 3 scale for purposes of this project. 12:05

11 A. No, not consciously.

12 Q. What do you mean by "not consciously"?

13 A. Of course I had the knowledge of doing
14 analysis, but I made sure to confine my bias and
15 confine my focus when I'm doing the rating to just the 12:05
16 goal at hand, which is to match what Google had
17 requested in 2006.

18 Q. When you say "confine my bias," what do you
19 mean by "bias"?

20 A. Well, whatever information I had from the 12:05
21 patent analysis.

22 Q. How was that a bias?

23 A. Actually, maybe it's not bias. It's more of
24 knowledge, whatever my knowledge was from 2006.

25 Q. Okay. So you chose not to take into account 12:06

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1 information that you had about those patents in
2 carrying out this analysis; is that right?

3 A. I chose to make it first and foremost about
4 what Google had requested and required in 2006 in the
5 business negotiations. 12:06

6 Q. But did you use the information you had
7 learned from past analysis in order to rank these
8 1 through 3?

9 A. Not to my knowledge.

10 Q. What do you mean, "not to your knowledge"? 12:06

11 A. Of course it was in my brain, so all that
12 experience of the patent analysis was in my brain, but
13 I confined that so -- I confined that so that I
14 focused only on the task at hand, which was the --
15 qualifying that as what Google had requested for a 12:06
16 smartphone for what we were doing in business
17 negotiations during 2006.

18 Q. Did you have any writings memorializing your
19 analysis of those six patents?

20 A. Did I have any writings? 12:06

21 MR. NORTON: Objection to form.

22 THE WITNESS: So, personally, it wasn't my
23 writings, but -- well, that's privileged information,
24 but I don't -- I don't know if we -- I can give that?

25 MR. NORTON: Can I help a little bit? 12:07

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12:07

[illegible]

[illegible]

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[illegible]

22 MR. PAIGE: Okay. With that, I don't believe
23 I have any further questions for Mr. Wong. Thank you
24 very much for your time.

25 MR. NORTON: I will have a question, but I'd 01:44

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1 like to change chairs, if you don't mind. I don't
2 think we need to go off the record. Why don't you
3 just stay in your seat.

4 THE WITNESS: All right.

5 (Discussion off the record.)

6 MR. NORTON: All right. We'll still on the
7 record.

8 EXAMINATION

9 BY MR. NORTON:

10 Q. Mr. Wong, I just have a couple of questions 01:46
11 for you. I don't want to take too much more of your
12 time.

13 In the stack of documents that were marked
14 originally, one of them is Exhibit 563, and it's the
15 document that was identified as a blog entry by you. 01:46

16 A. Oh, okay.

17 Q. And I apologize, I need you to look at 564,
18 which was the other version of the blog entry by you.

19 A. I have 564, yes.

20 Q. You have that in front of you? 01:46

21 A. Yes, I do.

22 Q. All right. And if you would turn to the page
23 that includes the comment by you --

24 A. Yes.

25 Q. -- that Mr. Paige asked you some questions 01:46

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1 STATE OF CALIFORNIA) ss:

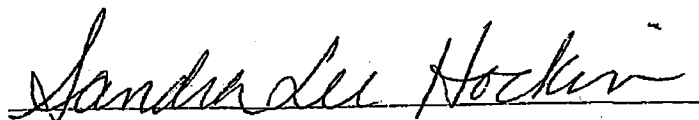
2
3 I, SANDRA LEE HOCKIN, C.S.R. No. 7372, do hereby
4 certify:

5 That the foregoing deposition testimony was
6 taken before me at the time and place therein set
7 forth and at which time the witness was administered
8 the oath;

9 That the testimony of the witness and all
10 objections made by counsel at the time of the
11 examination were recorded stenographically by me,
12 and were thereafter transcribed under my direction
13 and supervision, and that the foregoing pages
14 contain a full, true and accurate record of all
15 proceedings and testimony to the best of my skill
16 and ability.

17 I further certify that I am neither counsel for
18 any party to said action, nor am I related to any
19 party to said action, nor am I in any way interested
20 in the outcome thereof.

21 IN WITNESS WHEREOF, I have subscribed my name
22 this 17th day of February, 2012.

23
24 

25 SANDRA LEE HOCKIN, C.S.R. No. 7372

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